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Message Text

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11
ORIGIN NEA-03

INFO OCT-01 ISO-00 /004 R

66011
DRAFTED BY:NEA/INS:BWBROWN:EI
APPROVED BY:NEA/INS:BWBROWN
---------- 059985
R 250200Z MAY 76
FM SECSTATE WASHDC
TO USMISSION OECD PARIS

C O N F I D E N T I A L STATE 127320

STADIS//////////////////////////
FOR DENNIS KUX, NEA/INS

FOLLOWING REPEAT STATE 127320 ACTION NEW DELHI INFO BOMBAY MAY 24.

QUOTE: C O N F I D E N T I A L STATE 127320

STADIS

E.O. 11652: GDS
TAGS: TGEN
SUBJECT: NRC HEARINGS

REFERENCES: A) NEW DELHI 7592, B) KRATZER-ROSENTHAL
TELCON, MAY 22, C) NEW DELHI 7601

1. AS REPORTED REF B, NRC ISSUED NOTICE AFTERNOON OF
FRIDAY, MAY 21 (WRITTEN TEXT NOT YET AVAILABLE) POSTPONING
HEARINGS UNTIL MID-JULY AND STATING THAT ACTION ON AMENDED
LICENSE 805 WOULD BE TAKEN AS SOON AS APPLICATION RECEIVED
BY COMMISSION. NRC HAS NOT DECIDED TO DEFER THURSDAY HEAR-
INGS WITHOUT ISSUING LICENSE. IT HAS NOT YET ACTED ON
LICENSE APPLICATION. HEARING DEFERRAL BY COMMISSION PRE-
CEDED ITS RECEIPT OF A LETTER FROM JOINT COMMITTEE ON ATOMIC
ENERGY REQUESTING 15 DAYS NOTICE ON ALL FUTURE LICENSE
ISSUANCES TO NON-NPT COUNTRIES. IN LIGHT OF ANDERSON AMEND-
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MENT ADOPTED BY HOUSE (BUT NOT YET BY SENATE) REQUIRING SUCH
LICENSES BE REFERRED TO CONGRESS. WHILE AMENDMENT TO
LICENSE 805 WAS SUBMITTED BY EDLOW SOMETIME FRIDAY, MAY 21,
WE HAVE BEEN TOLD THIS WAS NOT YET BEFORE COMMISSION WHEN

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IT TOOK ACTION. WE UNDERSTAND COMMISSION FELT IT HAD TO ACT ON DEFERRAL IN ORDER TO AVOID POTENTIAL LEGAL ATTACK ON HEARINGS ON GROUNDS OF INADEQUATE NOTICE TO PUBLIC.

2. WE BELIEVE ANDERSON AMENDMENT WAS TRIGGERED BY SOUTH AFRICAN REACTOR EXPORT CASE AND BY RENEWAL OTHER PENDING PIECES OF LEGISLATION WHICH MIGHT HAVE BEEN EVEN MORE RESTRICTIVE ON NUCLEAR EXPORTS. EFFECT OF ANDERSON AMENDMENT, IF IT BECOMES LAW, ON PENDING EXPORTS TO INDIA IS HIGHLY UNDERTAIN; AND WE HAVE ALREADY BEGUN LEGAL ANALYSIS ON HIGH PRIORITY BASIS. SIMILARLY, LEGAL EFFECT OF JCAE LETTER ALSO HIGHLY UNCERTAIN. ALTHOUGH AS PRACTICAL MATTER, WE EXPECT NRC WILL PROCEED VERY CAUTIOUSLY AND WILL CONSULT WITH CONGRESS BEFORE TAKING ANY LICENSING ACTIONS WHICH MIGHT BE WITHIN SCOPE OF POTENTIAL AMENDMENT OF JCAE LETTER.

3. WE FULLY RECOGNIZE PROBLEM WHICH WILL ARISE IF NRC HEARINGS ARE DEFERRED, BUT LICENSE IS NOT ISSUED. WE HOPE THIS WILL NOT OCCUR. HOWEVER, AS POINTED OUT IN AN EARLIER MESSAGE, AGREEMENT BETWEEN DEPARTMENT AND PETITIONERS IS NOT RPT NOT BINDING ON NRC, AND THERE WAS NO AGREEMENT BETWEEN NRC AND GOI. NRC HAD BEFORE IT REQUEST FROM PETITIONERS FOR 45 DAY DELAY, WHICH IT HAD RIGHT TO ACT UPON, AND CONCEIVABLY ACCEPT, WITH OR WITHOUT GOI AGREEMENT.

4. DESPITE FACT NRC NOT BOUND BY AGREEMENT, WE CONTINUE TO BELIEVE NRC WILL MAKE EVERY EFFORT TO ISSUE 805, NOTWITHSTANDING THESE ENTIRELY UNEXPECTED EVENTS. HOWEVER, THERE IS NO WAY WE CAN PREDICT THEIR ACTION, ALTHOUGH WE WILL SEEK ALL AVAILABLE INFORMATION AND INFORM YOU SOONEST. MEANWHILE, IN VIEW UNDERTAIN STATUS OF MATTER, WE SUGGEST YOU INFORM GOI INFORMALLY WHERE MATTERS STAND, STRESSING THAT DEVELOPMENTS WERE NOT TRIGGERED BY INDIAN EXPORT APPLICATIONS, AND THAT GOI AGREEMENT TO DELAY IN HEARINGS IN EXCHANGE FOR EARLY ISSUANCE OF AMENDED LICENSE 805 HAS ACTUALLY IMPROVED CHANCES OF EARLY SHIPMENT. IF LICENSING
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DECISION HAD OCCURRED AROUND END OF JUNE, AS CONTEMPLATED BY ORIGINAL NRC SCHEDULE, 805 WOULD ALMOST CERTAINLY BE CAUGHT UP BY ANDERSON AMENDMENT, IF IT BECOMES LAW. ROBINSON
UNQUOTE SISCO

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